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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **JACQUELINE KIEFFER,**
14 **a.k.a. JACQUELINE STRAKA**
15 **a.k.a. JACQUIE KIEFFER**
16 1464 Avenida Loma Vista
San Dimas, CA 91773

17 Registered Nurse License No. 522588

18 Respondent.

Case No. 2013-952

A C C U S A T I O N

19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
22 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
23 Consumer Affairs.

24 2. On or about June 14, 1996, the Board of Registered Nursing issued Registered Nurse
25 License No. 522588 to Jacqueline Kieffer, also known as Jacqueline Straka, and Jacque Kieffer
26 (Respondent). The Registered Nurse License expired on February 28, 2010, and has not been
27 renewed.

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 490 states, in pertinent part:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

"(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

5. Section 492 states:

"Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest.

1 "This section shall not be construed to apply to any drug diversion program operated by any
2 agency established under Division 2 (commencing with Section 500) of this code, or any
3 initiative act referred to in that division."

4 6. Section 2761 states, in pertinent part:

5 "The board may take disciplinary action against a certified or licensed nurse or deny an
6 application for a certificate or license for any of the following:

7 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

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9 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
10 violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice
11 Act] or regulations adopted pursuant to it.

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13 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
14 functions, and duties of a registered nurse, in which event the record of the conviction shall be
15 conclusive evidence thereof."

16 7. Section 2762 states, in pertinent part:

17 "In addition to other acts constituting unprofessional conduct within the meaning of this
18 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
19 chapter to do any of the following:

20 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
21 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
22 administer to another, any controlled substance as defined in Division 10 (commencing with
23 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
24 defined in Section 4022.

25 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
26 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
27 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to

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1 himself or herself, any other person, or the public or to the extent that such use impairs his or her
2 ability to conduct with safety to the public the practice authorized by his or her license.

3 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
4 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
5 or the possession of, or falsification of a record pertaining to, the substances described in
6 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
7 thereof."

8 8. Section 2764 provides, in pertinent part, that the expiration of a license shall not
9 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
10 to render a decision imposing discipline on the license.

11 9. Health and Safety Code section 11550, subdivision (a) states, in pertinent part:

12 "No person shall use, or be under the influence of any controlled substance which is (1)
13 specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054,
14 specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified
15 in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d)
16 or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in
17 Schedule III, IV, or V, except when administered by or under the direction of a person licensed
18 by the state to dispense, prescribe, or administer controlled substances."

19 REGULATORY PROVISIONS

20 10. California Code of Regulations, title 16, section 1444, states, in pertinent part:

21 "A conviction or act shall be considered to be substantially related to the qualifications,
22 functions or duties of a registered nurse if to a substantial degree it evidences the present or
23 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
24 safety, or welfare."

25 COST RECOVERY

26 11. Section 125.3 provides, in pertinent part, that the Board may request the
27 administrative law judge to direct a licensee found to have committed a violation or violations of

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1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.... Nothing in this section shall preclude a board from including the
3 recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

4 12. **CONTROLLED SUBSTANCE**

5 "Methamphetamine," is a Schedule II controlled substance as designated by Health and
6 Safety Code section 11055, subdivision (d)(2) and is categorized as a dangerous drug pursuant to
7 section 4022.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Convictions of Substantially Related Crimes)**

10 13. Respondent is subject to disciplinary action under sections 2761, subdivision (f) and
11 490, as defined in California Code of Regulations, title 16, section 1444, in that Respondent has
12 been convicted of crimes substantially related to the qualifications, functions or duties of a
13 registered nurse, as follows:

14 14. On or about March 9, 2012, after pleading guilty, Respondent was convicted of one
15 misdemeanor count of violating Vehicle Code section 14601.1, subdivision (a) [driving while
16 driver's license is suspended or revoked] in the criminal proceeding entitled *The People of the*
17 *State of California v. Jacqueline Straka* (Super Ct. Los Angeles County, 2012, No. 1PK03732).
18 The Court sentenced Respondent to serve 10 days in Los Angeles County Jail. The
19 circumstances surrounding the conviction are that on or about June 10, 2011, Respondent drove a
20 vehicle while her driver's license was in a suspended or revoked status.

21 15. On or about October 13, 2011, Respondent was convicted of one misdemeanor count
22 of violating Health and Safety Code section 11377, subdivision (a) [possession of a controlled
23 substance], one misdemeanor count of Health and Safety Code section 11550, subdivision (a)
24 [under the influence of a controlled substance], and one misdemeanor count of Health and Safety
25 Code section 11364, subdivision (a) [possession of controlled substance paraphernalia] in the
26 criminal proceeding entitled *The People of the State of California v. Jacqueline Straka* (Super Ct.
27 Los Angeles County, 2012, No. 1PK05511). The Court placed Respondent on deferred entry of
28 judgment program for a period of 18 months. On or about October 15, 2012, Respondent was

1 terminated from the deferred entry program, criminal proceedings were reinstated, and the Court
2 issued a bench warrant in the amount of \$30,000 that is still outstanding.

3 16. The circumstances surrounding the conviction are that on or about October 11, 2011,
4 during an investigation of a 911 hang up call, the Los Angeles County Sheriff's Department
5 contacted Respondent at her residence. Respondent explained that she had been in a heated
6 argument with her live-in boyfriend. However, while speaking to the investigating officer,
7 Respondent displayed symptoms of being under the influence of a controlled substance.
8 Respondent admitted that she had smoked meth earlier that day. Moreover, she told the officer
9 that there was a glass pipe containing Methamphetamine in her room. Respondent was arrested
10 for violating Health and Safety Code section 11550, subdivision (a) [under the influence of a
11 controlled substance], Health and Safety Code section 11377, subdivision (a) [possession of a
12 controlled substance], and Health and Safety Code section 11364 [possession of controlled
13 substance paraphernalia].

14 17. On or about May 5, 2006, after pleading nolo contendere, Respondent was convicted
15 of one misdemeanor count of violating Penal Code section 415, subdivision (2) [disturbing the
16 peace] in the criminal proceeding entitled *The People of the State of California v. Jacquie Kieffer*
17 (Super Ct. Los Angeles County, 2006, No. 6PK02136). The Court sentenced Respondent to
18 serve 1 day in Los Angeles County Jail and placed her on 3 years probation, with terms and
19 conditions.

20 18. The circumstances surrounding the conviction are that on or about March 20, 2006,
21 Respondent hit her husband in the face and kicked him several times in the groin area.
22 Respondent was arrested by the Los Angeles County Sheriff's Department for violating Penal
23 Code section 243, subdivision (e)(1) [battery against spouse/cohabitant].

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Illegal Possession of a Controlled Substance and/or Narcotic Paraphernalia)**

26 19. Respondent is subject to disciplinary action under section 2761, subdivision (a), as
27 defined in section 2762, subdivision (a), in that Respondent was found to be in possession of a
28 controlled substance, narcotic paraphernalia and/or dangerous device, as follows:

1 a. On or about March 6, 2012, during a traffic stop, by the Los Angeles County Sheriff's
2 Department, Respondent was contacted. Respondent admitted to the officer that she did not have
3 a driver's license. Moreover, Respondent had outstanding warrants. Respondent admitted that
4 she had meth inside her purse. During a search of her purse, the officer located a small clear
5 plastic baggy containing white crystal substance resembling Methamphetamine. Respondent
6 admitted to using Methamphetamine for several years and had last ingested it that morning.

7 b. On or about October 11, 2011, Respondent was in possession of a controlled
8 substance and controlled substance paraphernalia as described more fully above paragraphs 15
9 and 16.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Use/Under the Influence of a Controlled Substance)**

12 18. Respondent is subject to disciplinary action under section 2761, subdivision (a), as
13 defined in section 2762, subdivision (b), in that Respondent was found to be under the influence
14 of a controlled substance, violating of Health and Safety Code section 11550, subdivision (a) as
15 follows:

16 a. On or about October 11, 2011, and March 6, 2012, used and/or was under the
17 influence of a controlled substances. Complainant refers to, and by this reference incorporates,
18 the allegations set forth above in paragraphs 15, 16 and 19 subsections (a) and (b), as though set
19 forth fully herein.

20 b. On or about May 26, 2008 during warrant investigation, by the Los Angeles County
21 Sheriff's Department, Respondent was contacted. While speaking to Respondent, she displayed
22 signs and symptoms of being under the influence of a controlled substance. Respondent's speech
23 was rapid, she was highly excited, and she could not stand still. When asked if she had used
24 anything illegal, she admitted to snorting "meth" 3 days ago. Respondent was arrested for
25 violating Health and Safety Code section 11550, subdivision (a) [under the influence of a
26 controlled substance], Vehicle Code section 14601.1, subdivision (a) [driving while driver's
27 license is suspended or revoked], and the three outstanding warrants.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Conviction Involving the Use of a Controlled Substance)**

3 19. Respondent is subject to disciplinary action under section 2761, subdivision (a), as
4 defined in section 2762, subdivision (c), in that on or about October 13, 2011, Respondent was
5 convicted of a crime involving the use of a controlled substance. Complainant refers to, and by
6 this reference incorporates, the allegations set forth above in paragraphs 15 and 16, as though set
7 forth fully herein.

8 **PRAYER**

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Board issue a decision:

- 11 1. Revoking or suspending Registered Nurse License No. 522588, issued to Jacqueline
12 Kieffer, also known as Jacqueline Straka, and Jacquie Kieffer;
- 13 2. Ordering Jacqueline Kieffer, also known as Jacqueline Straka, and Jacquie Kieffer to
14 pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to
15 section 125.3; and
- 16 3. Taking such other and further action as deemed necessary and proper.
- 17

18 DATED: April 23, 2013

19 Louise R. Bailey
20 LOUISE R. BAILEY, M.Ed., RN
21 Executive Officer
22 Board of Registered Nursing
23 Department of Consumer Affairs
24 State of California
25 Complainant

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